

REMARKS

Claims 1-8 are currently pending in the instant application. Claims 1 and 8 have been amended. Claim 1 has been amended to recite "X denotes a nitrogen atom". Support for the recitation of a method of treating a malignant tumour "or a disease of the respiratory tract or lungs which is accompanied by increased or altered production of mucus caused by stimulation of tyrosine kinases" of claim 8 can be found throughout the specification, *inter alia*, at page 18, paragraph 1.

No new matter has been added. In light of the above amendments, claims 1-8 are under active consideration in this application.

Claim Objections-Election/Restrictions

Claim 1 is objected to as being an improper Markush grouping. Claim 1 has been amended to recite a compound where X is a nitrogen atom. This objection, therefore, has been obviated.

Section 112 Rejections

Claim 8 is rejected under 35 U.S.C. §112, first paragraph for lack of enablement.

According to the Examiner, claim 8 is enabled for a method of treating a malignant tumor. However, the Examiner contends that claim 8 is not enabled for treatment of "a disease of the respiratory tract or lungs, polyps, a disease of the gastro-intestinal tract, bile duct or gall bladder, a disease of the kidneys or of the skin".

Applicants disagree, however, solely in order to advance prosecution, Applicants have amended claim 8 to recite a method for treating a malignant tumor or disease of the respiratory tract or lungs wherein the disease of the respiratory tract or lungs is "accompanied by increased or altered production of mucus caused by stimulation of tyrosine kinases". Support for claim 8, as amended, can be found throughout the specification, *inter alia*, at page 18, paragraph 1. In addition, Applicants direct the Examiner's attention to U.S. Patent No. 6,566,324, submitted herewith, wherein a method for treating hypersecretion of mucus in lungs by administration of an epidermal growth factor receptor (EGF-R) antagonist is described throughout the specification and claims.

Thus, Applicants submit that the indication for treating a disease of the respiratory tract and lungs, as well as for treating a malignant tumor, is fully enabled.

In light of the above amendments, it is submitted that this rejection under Section 112 has been overcome and must be withdrawn.

Double Patenting

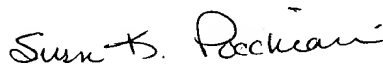
Claims 1-8 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-9 of co-pending U.S. Application No. 09/929,931.

In response, Attorney for Applicants files herewith a Terminal Disclaimer. In light of the Terminal Disclaimer, this rejection for double patenting has been overcome and must be withdrawn.

CONCLUSION

In light of the above amendments and remarks, Applicants submit that all of the objections and rejections have been overcome and must be withdrawn. Further, Applicants submit that the application is now in form for issuance and an early allowance is earnestly requested. If any issues remain, the Examiner is invited to telephone the Attorney at the number listed below.

Respectfully submitted,



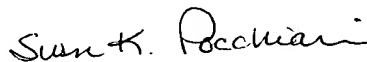
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